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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/161,816	09/28/1998	MALCOM B. STRANDBERG	DAVOX-142XX	8075

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BOURQUE & ASSOCIATES, P.A.  
835 HANOVER STREET  
SUITE 303  
MANCHESTER, NH 03104

EXAMINER
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AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 04/21/2004

21

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/161,816

Applicant(s)

STRANDBERG, MALCOM B.

Examiner

Hector A. Agdeppa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-23 and 26-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-23,26-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 2/5/04. Claims 1, 4 – 23, and 26 - 36 are now pending in the present application. **This action is made final.**

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 13, 22, 29, 30, 32, and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Looking at element/location 14c of Fig. 3 of applicant's invention, simultaneous support of both voice and data communications are possible. Notwithstanding element/telephone 78, the computer terminal 74, as is old and well known, can communicate using both voice and data simultaneously. Voice over IP communications have always been able to proceed simultaneously with data communications such as email if both connections are effected only through the computer. Therefore, location 14c could, as noted above, simultaneously support both voice and data.

Looking at element/location 14b, because there are two separate communications lines connecting telephone 76 to telephone network 64 and connecting computer terminal 72 to global computer network 62, again, simultaneous voice and data communications are possible at the location.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4 – 11, 21 – 23, 26, and 29 - 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton).

As to claims 1, 4 – 11, 21 – 23, 26, and 28, the rejection is respectfully maintained and incorporated by reference as set forth in the last office action.

As to claims 29 – 33, see the previously made rejection of claim 1 and note that Fig. 8 of Bateman et al. teaches an embodiment of the invention wherein a single, analog telephone line to which both a computer via a modem and a standard POTS telephone are connected. In this setup, at the outset of Internet communications and even now, when dialup connections are used to connect to the Internet, it is not possible for both voice and data to be simultaneously supported, where both a telephone and computer are being used to effect voice and data communications respectively. Only one type of communication will be supported at any one time on a standard analog telephone line. Therefore, if one connects to a call center and requests a call back

using a dialup connection over the Internet, using a computer, that data connection must be disconnected in order to receive a call back from the call center over the standard telephone line, to the standard telephone.

4. Claims 12 – 20, 27, and 34 - 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton) and further in view of US Pat 5,214,688 (Szlam et al.)

As to claims 12 – 20, and 27, the rejection is respectfully maintained and incorporated by reference as set forth in the last office action.

As to claims 34 – 36, see the above rejection of claims 29 – 33.

#### ***Response to Arguments***

5. Applicant's arguments filed 2/5/04 have been fully considered but they are not persuasive.

Examiner maintains the grounds of the previous office action. Applicant claims that the present invention, at the time filed is not anticipated by Batemen et al. However, in Fig. 8 of Bateman et al., it is shown that in one embodiment, a computer 124 is connected to the same line as a telephone 120. Moreover, see Fig. 10 of Bateman et al., wherein that same line can be an analog line. At the outset of Internet use, modems, such as modem 122 of Bateman et al., were used to allow dialup connection to the Internet over an analog line. At this time, simultaneous support of

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voice and data, i.e., voice over a POTS telephone and data over a computer, were not possible.

Even today, standard telephone lines cannot support both voice and data in this manner. If one is connected to the Internet over a dialup connection, one must still disconnect from the Internet to use a telephone connected to the same line. While Bateman et al. does contemplate embodiments of the invention wherein data and voice can simultaneously be supported, such would only be possible with an SVD/ISDN unit 216 (Fig. 10) and/or if the one line is an ISDN line which may support both voice and data simultaneously.

Therefore, even if Bateman et al. intended for simultaneous voice and data communications by using the second modem 126 seen in Fig. 8, it still would have been obvious that if a second modem was not available, operation of the system would be as that claimed by the present invention. Also, while an argument can be made that Bateman et al. teaches using two separate modems, in earlier times, and even in present times, a customer using two modems between one computer and one telephone is highly unlikely. Also, reading Col. 9, lines 49 – 64 of Bateman et al. the use of the two modems has to do with DDE (dynamic data exchange). With DDE, data is allowed to be passed between different applications on a computer. The use of the two modems does not likely have anything to do with simultaneous voice and data communications.

Moreover, Fig. 8 of Bateman et al. nearly mirrors the embodiment of applicant's present invention seen in Fig. 3 further indicating Bateman et al. does in fact read on the present invention.

Finally, applicant has alluded to the fact that simultaneous voice and data communications were not contemplated at the time of filing of the present invention. Therefore, the present invention had an advantage over the prior art known at that time. However, the Bateman et al. reference was filed in 1995, a full three years before the application for the present invention was filed and does teach certain embodiments wherein simultaneous voice and data communications are possible on the same line.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

H.A.A.  
April 17, 2004

  
**AHMAD MATAR**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600